
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

☐ All Child Care Evaluator Manual Holders
☒ All Residential Care Evaluator Manual Holders
☐ All Evaluator Manual Holders

Transmittal No.
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Subject:**2008 Chaptered Legislation****Appendix A****Adult Community Care Facilities and
Residential Care Facilities for the Chronically Ill****Reason For Change:**

This transmits an amendment to the summaries of legislation chaptered in 2008 affecting Adult Community Care Facilities and Residential Care Facilities for the Chronically Ill. Information regarding AB 3000 was added.

The summaries are divided into two sections as follows:

1. Immediate Action Required - Interim instructions are provided.
2. Information Only - No action required by the CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become effective on January 1, 2009.

Filing Instructions:

Insert the attached pages into Appendix A. Do not remove similar documents from the previous years.

Approved:***Original Signed by Thomas Stahl******9/29/09***

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SUMMARY AND IMPLEMENTATION PLANS 2008 CHAPTERED LEGISLATION

ADULT COMMUNITY CARE FACILITIES AND RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

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ACTION REQUIRED

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INFORMATION ONLY – NO ACTION REQUIRED

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Unless otherwise noted, all new legislation becomes effective on January 1, 2009. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 978 (Benoit), CHAPTER 291, STATUTES OF 2008

Affects: Foster Family Homes, Group Homes, Small Family Homes, Foster Family Agencies, Certified Family Homes, Transitional Housing Placement Programs, Crisis Nurseries, Adult Residential Facilities, Social Rehabilitation Facilities, Adult Day Programs (All Community Care Facilities), Residential Care Facilities for the Chronically Ill (RCF-CI), Residential Care Facilities for the Elderly (RCFE)

Subject: Immediate Civil Penalties; California Department of Social Services (CDSS) use of civil penalty moneys; unannounced facility visits; Plans of Correction; licensing report requirements

Summary: AB 978 requires the immediate assessment of civil penalties for designated serious violations at community care facilities (CCFs), including Foster Family Homes, RCF-CIs, and RCFEs. AB 978 requires that collected civil penalties be expended by the CDSS exclusively for the technical assistance, training, and education of licensees.

The bill mandates unannounced follow-up visits within 30 days of the effective date of license suspensions, within 30 days of the effective date of revocations, and within 30 days after service of an order for the immediate exclusions of persons from facilities.

The bill requires the CDSS to ensure that a licensee's Plan of Correction (POC) is measurable and verifiable, and to specify in its licensing reports all violations that, if not corrected, will have a direct and immediate risk to clients in care. In addition, the CDSS shall complete all complaint investigations and place a note of final conclusion in the CDSS facility file, regardless of whether the license was surrendered.

This bill specifically addresses the following for community care facilities (CCFs), RCF-CIs, and RCFEs:

1. Authorizes that collected civil penalty fees be deposited into the Technical Assistance Fund and that the CDSS expend civil penalty fees collected from CCFs, RCF-CIs and RCFEs exclusively for the technical assistance, training, and education of licensees.
2. Requires the CDSS to ensure that a licensee's POC is verifiable and measurable and that the POC specify the evidence that is acceptable to establish that a deficiency has been corrected.
3. Requires that licensing reports specify all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients in care.
4. Requires the CDSS to complete all complaint investigations and place a note of final conclusion in the CDSS's facility file regardless of whether the license was voluntarily surrendered

5. Requires the CDSS to conduct unannounced visits within 30 days after the effective date of a temporary suspension, within 30 days of the effective date of a revocation, or within 30 days after the CDSS serves an order of immediate exclusion.
6. Defines violations warranting immediate civil penalty assessment of \$150 per day, per violation until correction is made, as follows:
 - a. Fire clearance violations including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems with certain exceptions as listed in item 7 below;
 - b. Absence of supervision;
 - c. Accessible bodies of water;
 - d. Accessible firearms or ammunition;
 - e. Refused entry of an agent of the CDSS to a facility; and
 - f. The presence of an excluded person on the premises.
7. Provides that for fire clearance violations mentioned in number 6 above, civil penalties shall not be assessed under the following specific circumstances: 1) the licensee has initiated eviction proceedings; 2) the licensee has requested the appropriate fire clearance based on ambulatory, nonambulatory or bedridden status and the decision is pending; or 3) the licensee has filed an appeal for a denied bedridden fire clearance (penalties shall not be assessed until the final appeal is decided or 60 days have passed from the date of citation, whichever is earlier).

Implementation:

Modifications to the Evaluator Manual are required to provide direction to Licensing Program Analysts on the above changes. Additionally, certain licensing forms related to civil penalties will be modified. These changes will be clarified in Information Releases scheduled to be published in the Spring of 2009.

Training will be provided to Licensing Program Analysts by the Technical Assistance Bureau.

AB 3000 (Wolk), CHAPTER 266, STATUTES OF 2008

Affects: Residential Care Facilities for the Elderly, Adult Residential Facilities, Residential Care Facilities for the Chronically Ill, Social Rehabilitation Facilities, Adult Day Programs, Adult Residential Care Facilities with Persons with Special Health Needs Services

Subject: Health care decisions: Life-Sustaining Treatment

Summary: AB 3000 amends Probate Code sections 4780, 4782, 4783, 4784, and 4785. AB 3000 adds Probate Code sections 4781.2, 4781.4, and 4781.5.

Previously, most advanced health care directives focused on "do not resuscitate" orders. The Probate Code refers to "requests to forego resuscitative measures"; this new law amends the Probate Code by redefining the requests as "requests *regarding* resuscitative measures" (*italics added*). Within this definition is the Physician's Order for Life-Sustaining Treatment (POLST), which provides more detailed instructions as to when and to what level resuscitative measures should be employed on an individual.

Many advanced health care directives are designed simply to name a decision-maker for the individual if they become incapacitated. The named person then is able to make health care decisions for the other. These forms are often not available to health care providers when the need arises to ensure the patient's wishes are followed. A POLST is a physician's order that provides greater detailed instruction related to end-of life treatment; e.g., when, where, to what extent, and under what circumstances life-sustaining resuscitative measures should be employed. The POLST form does not supplant Advanced Directives. The resident determines which type of form he/she wishes to use related to end-of life care/treatment decisions.

The POLST is useful because 1) it is an immediately-actionable, signed physician order on a form approved by the Emergency Medical Services Authority; 2) it is an order that addresses a range of life-sustaining interventions as well as an individual's preferred intensity of treatment of the intervention; and 3) it is a form that is recognized, adopted, and honored across treatment settings.

The POLST is to be completed by a health care provider based on patient preferences and medical indications, and signed by a physician and the patient or the patient's legally-recognized health care decision maker. A POLST may be executed by the legally-recognized health care decision maker only if the individual lacks capacity. A physician may issue a new POLST if, after consulting with the patient (or his or her legally-recognized health care decision maker), more current information about the patient's health status and goals of care merit such an issuance. An individual with capacity may request alternative treatment to that specified in his or her POLST at any time.

The California Coalition for Compassionate Care (CCCC) is leading implementation efforts of the POLST in California. The Coalition has developed a POLST form similar to that which is used in the six states that have fully implemented the POLST paradigm.

The California form is on #65 stock paper, bright pink in color for easy identification in the resident's file. Additional information, including a link to download the form, may be found on CCCC's website, www.finalchoices.org.

Implementation: These provisions have an effective date of January 1, 2009.

When a resident of a licensed care facility as referenced in the "Affects" section of the previous page has a POLST form completed by a health care professional (based on the resident's preferences and medical indications) and signed by a physician, facility operators must place it in the resident file. The POLST is a physician's order and should be honored and processed in the same manner as any other physician's order. Note: The POLST form is available through the California Emergency Medical Services Authority's website at <http://www.emsa.ca.gov/pubs/pdf/ApprovedPOLSTForm.pdf>.

Overview of POLST:

- Signed photocopies and Faxed copies are acceptable, although maintenance of the original POLST in the file is encouraged.
- Any section of the POLST that is incomplete implies full treatment for that section.
- HIPAA allows disclosure of the POLST to other health care professionals when necessary.
- The POLST should follow the resident if he or she is transferred or discharged.

This new law requires providers to:

- Accept and honor client/resident POLST forms.
- Review POLST to understand client/resident wishes.
- Ensure confidentiality of form and information contained in form.
- File client/resident POLST forms in client/resident records.
- As determined necessary, present client/resident POLST form to healthcare professionals, e.g. Emergency Medical Professionals, Physicians, et al.
- Ensure POLST form accompanies client/resident upon discharge from the facility to a different level of care or in cases where emergent services are required.
- Ensure at all times that the client/resident's condition or treatment needs can be met within the scope of licensure.

This new law requires Licensing Program Analysts to:

- Upon request or during a facility visit, provide copies of the Implementation Instructions to the licensee or provide information on how to obtain this information electronically.
- Process complaints related to POLST in consultation with the Licensing Program Manager to determine if a violation of law or regulation exists. Remember POLST is a physician's order.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2100 (Wolk), CHAPTER 481, STATUTES OF 2008

Affects: This bill does not impact CCLD.

Subject: Elder Abuse: Reporting

Summary: The statute created by this bill requires the local ombudsperson and the local law enforcement agency to immediately report known or suspected elder/dependent adult physical, sexual, and financial abuse that occurred in a long-term care facility to the local district attorney's office in the county where the known or suspected abuse occurred.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2327 (Caballero), CHAPTER 361, STATUTES OF 2008

Affects: All Community Care Facilities, Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, and Child Day Care Facilities.

Subject: Emergency Services: Humanitarian and Relief Services

Summary: AB 2327 amends section 8596 of the Government Code. This new law affects every state agency. It recognizes that persons fleeing a disaster often lose access to their personal documents and identification, and seeks to ensure that such persons are not prohibited from obtaining disaster-related assistance and services as a result. More specifically, this legislation does the following:

- Requires all state agencies to provide all possible assistance to the Governor and the director of the state Office of Emergency Services in implementing this law.
- Requires public employees “to assist evacuees and other individuals in securing disaster-related assistance and services without eliciting any information or document that is not strictly necessary to determine eligibility under state and federal laws.”
- Provides that nothing in this new law shall prevent public employees “from taking reasonable steps to protect the health or safety of evacuees and other individuals during an emergency.”